

**Salem Planning and Zoning Commission  
December 16, 2008**

Present: Abetti, F.  
Bingham, D.  
Buckley, K.  
Chinatti, M. – Town Planner/ZEO  
Dalkowski, R. – arrived at 7:30 pm  
McKenney, H.  
Savalle, R.

Absent: Fogarty, G.  
Vacancy, Alt.  
Vacancy, Alt.

Guests: See attached.

**CALL TO ORDER:**

Chairman H. McKenney called the meeting to order at 7:00 pm.

**PUBLIC HEARINGS: (postponed from 11/18/08)**

- 1) Tullai – resubdivision application (#RS10-08-01) resulting in the creation of one (1) new building lot – 196 West Road and possible action
- 2) S. Spang, Path Committee chair – Special Exception application (#SE08-11-01) for two (2) intermittent watercourse crossings in the Riparian Corridor Overlay Zone (RCOZ) – 10 Music Vale Road and possible action

Due to the fact that the agenda for tonight's public hearings were posted for a 7:30 pm start, the Commission took the following action:

M/S/C (McKenney/Buckley) to continue the public hearings to 7:30 pm on tonight's agenda and continue with the Commission's other items until then. Vote: approved unanimously.

**PETITIONERS:**

- 1) §8-24 Referral for the Multi-Purpose Path – 270 Round Hill Road to 10 Music Vale Road

Ms. Chinatti provided background information, noting that the statutory referral requirement for the path project as a whole had been overlooked, though an 8-24 was brought before, and a favorable recommendation provided by, the Commission for the parking lot construction.

M/S/C (Bingham/Abetti) to approve the conceptual plan for the Multi-Purpose Path from 270 Round Hill Road to 10 Music Vale Road as per Section 8-24 of the Connecticut General Statutes. Vote: approved unanimously.

## **PUBLIC COMMENTS:**

There were no *PUBLIC COMMENTS* this evening.

## **OLD BUSINESS:**

### **1) POC&D update**

F. Abetti, chair of the POC&D provided the Commission with an outline and time frame for the completion of the POC&D. (See File Copy) He explained the project structure, core group, SME's (subject matter experts), focus groups, and survey. F. Abetti also explained how the Vision Committee and the POC&D are working together on the survey and other areas where there maybe cross over.

D. Bingham suggested getting the 8 Mile River management plan as part of the baseline review.

H. McKenney asked for an estimate of expenditures the committee could possibly incur. He stated this would be needed for the P&Z meeting on January 20<sup>th</sup>, this estimate would be included in the P&Z presentation to the Board of Finance.

H. McKenney stated he would like an update from the POC&D chairman on a quarterly basis on their second meeting of the month.

At this time, the Commission continued with the *PUBLIC HEARINGS* on tonight's agenda.

The chair explained the Salem Planning and Zoning Commission's public hearing procedures.

Legal Notices read.

## **PUBLIC HEARINGS: (postponed from 11/18/08)**

### **1) Tullai - resubdivision application (#RS10-08-01) resulting in the creation of one (1) new building lot - 196 West Road and possible action**

M. Chinatti, Town Planner/ZEO: stated the history of the property to be re-subdivided. She explained there were two lots bought by the Tullai's and merged into one lot, they now want to separate the one lot into two, exactly as it was before they merged the two properties. M. Chinatti explained R. Gustafson (Sanitarian) stated there is a file on the property and he will check if proposed lot #1-3 can meet septic requirements should the lot be resubdivided. She suggested continuing the public hearing until next month to give the sanitarian more time to review the plans. The applicant has already submitted an extension.

Jess McMinn, agent for the applicant stated the wetlands have been mapped and updated. He stated he received a non-jurisdictional approval from wetlands.

M. Chinatti stated the condition placed on the ruling, which is that when the lot is to be developed it would have to come back to the IWCC for approval concerning the driveway. She informed the Commission the net buildable area does not apply to this property because the lot has been owned before the regulation was adopted in 2003. The Public Works Director still needs to comment on the application.

Public Comment: Tom Hejlik, 190 West Road stated he was concerned about maintaining the wetlands and the driveway. He said in the past he has paid to maintain the driveway even though he does not own it. He has tried to fix some of the flooding problems and recently the owner has worked with him on this. His two main issues are driveway issues and maintaining the road caps.

H. McKenney asked him to put his concerns in writing and submit to M. Chinatti. .

David Bergin, 178 West Road, is concerned where on the property the building is to take place and will it impact his property and infringe on the wetlands. He informed the Commission there was a covenant signed by all the property owners of that development, stating the property would only be used for horses or other domestic animals for ten years. M. Chinatti suggested he talk to an attorney, the Commission had no jurisdiction on the matter.

**M/S/C (McKenney/Dalkowski) to continue the public hearing for the Tullai resubdivision application (#RS10-08-01) resulting in the creation of one (1) new building lot at 196 West Road to the January 20, 2008 Salem Planning and Zoning Commission Regular Meeting. Vote: approved unanimously**

At this time, the Commission took the following action:

M/S/C (McKenney/Bingham) to add the following to tonight's agenda:

Under *OLD BUSINESS*,

As "2) Review Town Center Committee

Vote: approved unanimously.

**2) S. Spang, Path Committee chair - Special Exception application (#SE08-11-01) for two (2) intermittent watercourse crossings in the Riparian Corridor Overlay Zone (RCOZ) - 10 Music Vale Road and possible action**

Ms. Spang provided a quick overview of the project, stating that approval for two (2) crossings is requested, as those crossings are located within the Riparian Corridor Overlay Zone (RCOZ).

Wade Thomas, Nathan Jacobson & Associates, engineer for the project, explained that the activity, two (2) intermittent stream crossings, is proposed within the RCOZ of Harris Brook. There is nothing that can be done about one crossing as it is at the neck of the "bowtie" property (a.k.a. 10 Music Vale Rd.). He continued, stating the other is proposed in the most logical location. He further stated that Richard Snarski, a Certified Soil Scientist, provided a letter indicating the streams are not fish bearing streams, and that the activity is not proposed within Harris Brook proper, but within 100' of the brook. He stated the proposal meets the intent of the RCOZ, and also meets all of the special exception findings. He stated he anticipates all pipes will have silt build-up over time, but would wash out during larger storms and that the crossings would be self-cleaning.

Discussion ensued regarding the RCOZ requirements relative to this proposal, and that those requirements may be too stringent based on the minor activity proposed. It was noted again that the work will not be done within the actual Harris Brook, but the RCOZ regulations require a special exception as the work on the intermittent streams does fall within 100' of the brook.

Chairman McKenney recommended to the Commission that Ms. Chinatti draft a letter to the Eightmile River Committee outlining the evening's discussion and ask if this is something the Commission should be considering a waiver for. It was the consensus of the Commission that Ms. Chinatti should send the letter to Tony Irving, Chairman of the Eightmile River Committee.

Mr. Bingham asked what the cost of box culverts would be as opposed to the pipes, to which Mr. Thomas responded the cost would be two, if not three, times more expensive.

Mr. Bingham stated this is a technicality because if the work were proposed 50' further up on the site then a special exception would not be necessary. He continued, stating that the way the regulation is written it assumes a stream crossing is for a first or second order stream.

Chairman McKenney then instructed Ms. Chinatti to draft the letter, explaining the situation, to Tony Irving, and request clarification and a recommendation on the issue as far as a potential regulation amendment. He continued, stating that in the future the Commission may modify the regulation and still meet the intent of the original regulation.

Ms. Spang stated that when it becomes necessary to cross Harris Brook, if the RCOZ regulation did envision something like that - the Massachusetts guidelines - because the

crossing is for a path/bike path, instead of a road, to which Chairman McKenney responded definitely. He continued, stating the Commission specifically looked at that, and the regulation is intended for paths, trails, etc.

Mr. Thomas stated the crossing for Harris Brook proper will be designed for the 500 year storm.

**(M/S/C) (McKenney/Dalkowski)** to close the public hearing. Carried unanimously.

**(M/S/C) (McKenney/Buckley)** to approve SE #08-11-01 and associated plan, revised to November 10, 2008.

Chairman McKenney indicated he reviewed the Special Exception findings, and that nothing would be compromised. He stated the proposal also meets the six (6) findings of Section 25A Riparian Corridor Overlay Zone.

**Vote on the motion:** Carried unanimously.

#### **Old Business**

##### **2) Town Center Committee**

Chairman McKenney asked members to forward any comments they have on the draft Town Center Zone regulation to the Town Planner within the week so she can forward them to Roland Traylor.

#### **NEW BUSINESS:**

##### **1) Election of Officers for 2009**

**M/S/C (Bingham/Abetti)** to nominate and elect Hugh McKenney as Chairman of the Salem Planning and Zoning Commission for the year 2009. Vote: approved unanimously.

**M/S/C (McKenney/Buckley)** to nominate and elect Gloria Fogarty as Vice Chairman of the Salem Planning and Zoning Commission for the year 2009. Vote: approved unanimously.

**M/S/C (McKenney/Abetti)** to nominate and elect David Bingham as Secretary of the Salem Planning and Zoning Commission for the year 2009. Vote: approved unanimously.

H. McKenney informed the Commission that G. Fogarty's term was up in 2009 and she did not plan on running again. He stated at this point he does not plan to run for the Salem Planning and Zoning Commission when his term is up in 2011. He said the Commission needed to start thinking of a replacement for the chair and to keep that in mind when recruiting

for new members. D. Bingham said he would not be interested due to possible conflicts of interest with applicants coming before the Commission.

**ENFORCEMENT OFFICER'S REPORT/INLAND WETLANDS AND CONSERVATION  
COMMISSION REPORT:**

**APPROVAL OF MINUTES OF PREVIOUS MEETINGS:**

- 1) November 18, 2005 - Regular Meeting
- 2) November 25, 2008 - Regular Meeting

**M/S/C (McKenney/Bingham) to approve the minutes of the November 18, 2008 as amended and to approve minutes of the November 25, 2008 Regular Meeting as presented. Vote: Approved Unanimously**

Add; M/S/C (Fogarty/Savalle) to set an effective date of January 1, 2009 for amendment 5A.4, Authorization of Certain Year Round Uses. Vote: Approved Unanimously

This will be added on Page 4 after motion to approve 5A.4.

**EXECUTIVE SESSION:**

D. Bingham stated that he would recuse himself from the Kobyluck matter.

**M/S/C (McKenney/Buckley) to go into Executive Session at 8:26 pm and hear item 2) prior to item 1) and include M. Chinatti, Town Planner/ZEO and S. Spang, Recording Secretary**

- 1) Pending litigation (160 Old Colchester Road) - update

Present at Executive Session: H. McKenney, K. Buckley, R. Dalkowski, D. Bingham, F. Abetti, R. Savalle,

Present at the Commission's pleasure:

M. Chinatti, Town Planner/ZEO/WEO and S. Spang, Recording Secretary

- 1) Pending litigation (Kobyluck) - update

Present at Executive Session: H. McKenney, K. Buckley, R. Dalkowski, F. Abetti, R. Savalle,

D. Bingham recused himself and left the meeting at 8:48 pm.

Present at the Commission's pleasure:

M. Chinatti, Town Planner/ZEO and S. Spang, Recording Secretary

**M/S/C (McKenney/Buckley) to come out of Executive Session at 8:55 pm. Vote: approved unanimously.**

NO ACTION TAKEN.

**PLUS DELTAS:** R. Dalkowski wished he had thought to bring up the idea of a site walk for the Tullai property under discussion.

D. Bingham suggested he should have recused himself from the Tullai public hearing because he is an abutter to the property. He was not expecting it to be contested therefore did not see any reason to recuse before the hearing.

H. McKenney stated he thought F. Abetti did a great job on the POC&D time line.

**CORRESPONDENCE:** H. McKenney informed the Commission there were Christmas Cards received, and the CFPZA newsletter.

AT&T submitted a letter as a "courtesy" concerning towers (?) but they do not believe they have to go through the municipal permitting process. M. Chinatti disagrees; H. McKenney suggested the corresponding attorneys speak.

H. McKenney stated this was the last meeting of the year and thanked all the Commission members for their help and support.

K. Buckley thanked H. McKenney for being a good leader and guiding them through some difficult issues.

D. Bingham stated a lot was accomplished this year.

**ADJOURNMENT: M/S/C (McKenney/Buckley) to adjourn at 9:04. Vote: Approved Unanimously**

**ADJOURNMENT:**

**M/S/C (McKenney/Buckley) to adjourn the meeting at 9:04 pm. Vote: approved unanimously.**

Respectfully Submitted

Sue Spang  
Recording Secretary, Pro-Temp